



Decision

Matter of: Diverstech Co.

File: B-257395

Date: July 27, 1994

Barry Sugarman for the protester.
Riggs L. Wilks, Jr., Esq., and Gerald P. Kohns, Esq.,
Department of the Army, for the agency.
Peter A. Iannicelli, Esq., and Michael R. Golden, Esq.,
Office of the General Counsel, GAO, participated in the
preparation of the decision.

DIGEST

Protest that solicitation requirement that dishwashers being procured must be white in color overly restricts competition is denied where the dishwashers are to be installed in kitchens in family housing units in which all other major appliances already are white and the agency reasonably decided that only white dishwashers will fit in with the established color scheme and meet the aesthetic needs of the tenants.

DECISION

Diverstech Co. protests that invitation for bids (IFB) No. DABT23-94-B-0053, issued by the Department of the Army for dishwashers, unduly restricts competition. We deny the protest.

Issued on April 25, 1994, the IFB solicited bids for 100 dishwashers to be installed in family housing units at Fort Knox, Kentucky. The IFB does not specify any particular manufacturer's brand name or model number but does include a list of salient characteristics that the offered dishwashers must meet. One of the IFB's listed salient characteristics is that all dishwashers shall be white in color. Diverstech states that it can supply only black or almond dishwashers but that its dishwashers will "fit well in any kitchen that would take a white unit." Therefore, just 2 hours before bid opening, Diverstech filed this protest alleging that the white only requirement

unnecessarily restricts competition in violation of the Competition in Contracting Act of 1984, 10 U.S.C. § 2305(a)(1)(A) (1988).

In preparing for the procurement of supplies or services, the procuring agency must specify its needs and solicit offers in a manner designed to achieve full and open competition. 10 U.S.C. § 2305(a)(1)(A). A solicitation may include restrictive provisions only to the extent necessary to satisfy the needs of the agency or as otherwise authorized by law. 10 U.S.C. § 2305(a)(1)(B)(ii). Where an IFB provision is challenged as overly restrictive, the procuring agency must provide support for its belief that the provision is necessary to satisfy its needs. The adequacy of the agency's justification is ascertained through examining whether the agency's explanation is reasonable. See Absecon Mills, Inc., B-251685, Apr. 19, 1993, 93-1 CPD ¶ 332.

The Army reports that the Fort Knox Housing Office equips, furnishes, and maintains more than 4,300 family housing units. Each house contains standard household appliances, including a stove and refrigerator. All stoves and refrigerators are white in color. Dishwashers are provided to the residents as funds become available to purchase them. The Army states that "The Housing Office, as a matter of aesthetics, and in order to have the dishwashers match the other kitchen appliances, has asked for white dishwashers in its last several requests." Thus, the white only requirement was included in the IFB.

We have no basis to find unreasonable the Army's justification for the white only requirement. Apparently, all of the existing major kitchen appliances in the Fort Knox housing units are white. Therefore, the agency sought white dishwashers that would match the appliances that are already in the kitchens. An agency may properly use detailed specifications where the record demonstrates that a particular requirement is reasonably related to the agency's aesthetic needs. Id.; see also Dixon Pest Control, Inc., B-248725, Aug. 27, 1992, 92-2 CPD ¶ 132, and cases cited. We have specifically upheld an agency's use of a specification requiring a particular color where the agency reasonably established that the color restriction was necessary to maintain an established color scheme on federal

¹Unaware of the protest, the contracting officer conducted bid opening; 12 responsive bids were received.

²In accord with Army Regulation § 210-50, para. 10-25(a), all stoves and refrigerators in Army housing units are white.

property. Westinghouse Elec. Corp., B-224449, Oct. 27, 1986, 86-2 CPD ¶ 479; see also A.J. Fowler Corp., B-227955; B-227955.2, Nov. 13, 1987, 87-2 CPD ¶ 482. Here, the white color scheme in the housing units has already been established, and in the agency's opinion, only white dishwashers will fit in with the established color scheme and be aesthetically pleasing to the tenants. While Diverstech contends that other colors would be attractive in the Fort Knox kitchens, this is a matter of taste and judgment; the protester's mere disagreement with the agency on this point provides no basis to conclude that the requirement is overly restrictive.

The protest is denied.

/s/ Ronald Berger
for Robert P. Murphy
Acting General Counsel